United States Court of Appeals

for the Second Circuit

APPELLANT'S REPLY BRIEF

76-1033

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To be Argued by
JOSEPH I. STONE

B
P/S

UNITED STATES COURT OF APPEALS
For the Second Circuit

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UNITED STATES OF AMERICA,

Appellee,

-v-

RAYMOND ROBIN,

Defendant-Appellant.

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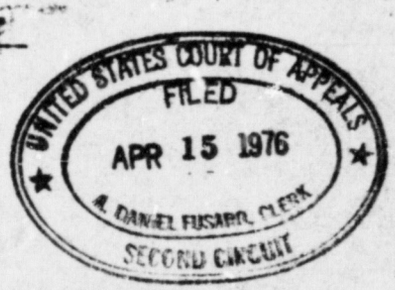
ON APPEAL FROM THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

REPLY BRIEF



JOSEPH I. STONE
Attorney for Appellant
277 Broadway
New York, New York 10007

TO: ROBERT B. FISKE, JR., ESQ.
United States Attorney
Southern District of New York
1 St. Andrews Plaza
New York, New York 10007

STATE OF NEW JERSEY)
SS.:
COUNTY OF ESSEX)

JACK L. COHEN, being of ful. age and duly sworn according to law, says:

1. I am the Jack L. Cohen who was counsel for the defendant Raymond Robin with respect to the case of United States of America vs. Raymond Robin, United States District Court, Southern District of New York, Docket No.

2. The record below contains a lengthy letter dated December 9, 1975 which was written to Judge Motley by David Cunningham, an Assistant District Attorney of the County of New York. My office practice does not include a receipt stamp on incoming mail; however, my recollection is that the letter was not received in my office before I left on a vacation trip on December 26, 1975 and it did not come to my attention until my return to my office on Tuesday, January 6, 1976.

3. On January 6th or 7th, 1976 I went to see Judge Motley for the purpose of requesting an adjournment of the sentence date (then scheduled for January 9). Judge Motley was engaged in a trial and I therefore went to her chambers and conferred with her law clerk. I told him that I desired to have an adjournment of the trial date for the reason that in the intervening time I could not thoroughly consult with the defendant and adequately prepare the many facets involved in the impending

very serious sentence. The law clerk instructed me to return later in the day. I did so.

4. Instead of my being permitted to address myself directly to Judge Motley I was informed by the law clerk that my application for adjournment of the sentence day had been denied.

5. The fact remains that I had not applied to the law clerk for adjournment of the sentence. My point in advising the law clerk of the nature of my request and the reason for it was so that he might inform Judge Motley and thereby apprise her of my desire to place the matter before her.

6. Since an adjournment of sentence was refused I did the best I could in preparing for the sentence on January 9. I know that every lawyer who looks back upon a case sees matters which he might have handled in a better or different fashion. This Affidavit is not designed to obtain that kind of overview. My purpose is to make clear herein that I did not have enough time and opportunity to adequately meet the many conclusiory and hearsay statements contained in Mr. Cunningham's letter.

7. On the morning of the sentence, I presented myself at Judge Motley's chambers at 9 a.m. and requested an opportunity to examine the pre-sentence report. The report was not made available to me until approximately 11 a.m. I was directed not to take the report out of the anteroom of the Judge's chambers. Further, I was not permitted to exhibit it to the defendant.

JACK L. COHEN

Sworn to and subscribed before me
this 16th day of March, 1976.

M. Susan McGrath

M. SUSAN McGRATH
A Notary Public of New Jersey
My Commission Expires Aug. 13, 1979